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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,134	03/23/2005	Viktor Zoubek	47623-0006	2574

7590 07/03/2006
Dickinson Wright
1901 L Street NW
Suite 800
Washington, DC 20036

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/529,134	Applicant(s) ZOUBEK ET AL.	
	Examiner Flemming Saether	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 6-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

The information disclosure statement filed 3/23/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document. A copy of the German reference DE 8,113,637 U has not been provided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchen (US 5,975,820) in view of Mizuno (US 6,560,819). Kirchen discloses a fixing element (12) comprising a retaining part (42), a spring stop (20) and a hollow foot anchor (16). The foot anchor includes toe opposing openings (not labeled) each including spring arms (30-36), forming opposing pairs of short (30, 32) and long (34, 36) spring arms, which originate at a lower edge of the opening and radially widen in a direction of the retaining part (see Fig. 2) wherein each pair forms an end face facing the retaining part at different horizontal planes (see Figs. 1 and 4). Kirchen does not disclose the spring arms provided with several horizontal step surfaces and the corresponding vertical contact surfaces. Mizuno also discloses a fixing element but, Mizuno teaches to provide the spring arms (5) with several horizontal step surfaces and the corresponding vertical contact surfaces (see Fig. 7B) as an improvement over an

end face (see Prior Art Fig. 8 and the corresponding description). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide each of the spring arms of Kirchen with several horizontal step surfaces and the corresponding vertical contact surfaces as disclosed in Mizuno in order to accommodate different thicknesses of a support part (see column 1, lines 48-49 in Mizuno). Both Kirchen and Mizuno have objectives to provide a certain amount of deflection to the flange for sealing purposes and the stepped surfaces as disclosed in Mizuno would allow the device of Kirchen more increments of adjustment to accommodate different thicknesses of the support member to ensure an optimal seal at the flange. Once the combination was made, the horizontal step surfaces and the vertical contact surfaces would be a different horizontal and radial planes respectively since they would be provided on different length arms. Finally, the combination with the bore in the support part is considered an intended use limitation, of which modified Kirchen would be capable, since the claims are directed to the fixing element.

Response to Remarks

Applicant has not addressed the issue with the German reference (DE 8113637) in the IDS thus that reference has still not been considered.

The 112 rejections have been obviated by applicant's amendment.

Applicant argues the combination of Kirchen and Mizuno lacks motivation since each reference comes up with a different solution to the same problem. In response, while the examiner agrees with applicant's understanding of the references the examiner does not agree the combination to the unobvious. Indeed, each of Kirchen and Mizuno include features to compensate for different thickness panels thus the skilled artisan would have considered both references when faced with the same problem and would have recognized Mizuno as teaching an improvement to the end of the legs to further improve the thickness compensating ability of Kirchen. The fact that both Kirchen and Mizuno are for solving the same problem merely make for analogous art and further supports the combination. It should be recognized that the nothing which would preclude the combination nor is there anything which would lead one away from the expectation of success for the combination.

Applicant also argues that even once combined, the combination of Kirchen and Mizuno would still not disclose the alternating step surfaces. In response, the examiner disagrees because Kirchen teaches the ends of the arms being offset thus once combined with the step surfaces they too would be similarly offset. Furthermore, the skilled artisan would have recognized that there would be no advantage gained if the steps were not offset or alternating.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moutousis is cited to show alternating steps.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
Art Unit 3677